

(G.C.P.)J 455 (5,00,000)-11.2001)

Spl-H.C.,A.S.,C.D.,78e

IN	THE	HIGH COURT APPELLATE	OF	JUDICATURE	AT	BOMBAY SIDE
	Civil	Application in		No.2601	of	2004
	Writ	Petition		No.1458	of	2004

Office Notes, Office Memoranda
of Coram, appearances, Court's
order or directions and
Registrar's order.

Court's or Judge's orders

Shri B.K.Raje for the applicant.

CORAM : R.M.S.KHANDEPARKAR, J

DATED : 2nd November, 2004

P.C.

1. Heard the learned advocate for the applicant. The applicant by this application prays for extension of time to vacate the premises upto 15th May, 2005. Irrespective of the various reasons disclosed in the application to seek extension for vacating the premises, the fact remains that by an order dated 22nd January, 2004 passed in Writ Petition No.2769 of 2004, the applicant was granted time to vacate the premises by 30th September, 2004 subject to filing usual undertaking within four weeks from 22nd January, 2004. Undisputedly, the applicant

has not filed the undertaking in that regard till this date. Lame excuse given in the application for non-filing of the undertaking is that he had to proceed to his native place and therefore could not return to Mumbai for a month. When he returned to Mumbai, he failed to file the undertaking as he had lost sight of the writ petition. A person who has obtained benefit from the Court's order on certain conditions does not bother to comply with the conditions imposed by the Court and continues to enjoy the benefits under the order and therefore to occupy the premises not only till the period by which he was required to vacate the premises but even thereafter, and the application having filed as late as on 12th October, 2004, nearly two weeks after the expiry of the period within which he was required to vacate the premises, the petitioner does not deserve any sort of sympathy or leniency and the application therefore deserves to be dismissed and is accordingly hereby dismissed.
